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6 Attorneys for Plaintiff
7 PALMTREE ACQUISITION CORPORATION, a Delaware
corporation f/k/a Catellus Development Corporation

8 **UNITED STATES DISTRICT COURT**

9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10
11 PALMTREE ACQUISITION CORPORATION, a
Delaware corporation,

CASE NO. CV 08 3168 EMC

12 Plaintiff,
13 vs.

**STIPULATION AND [PROPOSED]
ORDER TO FILE SECOND AMENDED
COMPLAINT**

14 MICHAEL R. NEELY, an individual; PERRY J.
15 NEELY, an individual; GARY NEELY, an
individual; MICHAEL R. NEELY, PERRY J.
16 NEELY and GARY NEELY dba MIKE'S ONE
HOUR CLEANERS; CHARLES FREDERICK
17 HARTZ dba PAUL'S SPARKLE CLEANERS;
CHARLES F. HARTZ, an individual;
18 MULTIMATIC CORPORATION, a New Jersey
corporation; WESTERN STATES DESIGN, a
19 California corporation; MCCORDUCK
PROPERTIES LIVERMORE, LLC, a Delaware
20 limited liability company individually and as the
successor to JOHN MCCORDUCK, KATHLEEN
21 MCCORDUCK, PAMELA MCCORDUCK,
SANDRA MCCORDUCK MARONA, and IMA
22 FINANCIAL CORPORATION, a California
corporation; STARK INVESTMENT COMPANY,
23 a California general partnership; GRUBB & ELLIS
REALTY INCOME TRUST, LIQUIDATING
24 TRUST, a California trust; NORTHROP
GRUMMAN SYSTEMS CORPORATION, a
25 Delaware corporation; and DOES 1-20, inclusive,

26 Defendants.

27 AND RELATED ACTIONS

1 WHEREAS, plaintiff and all of the defendants who have appeared, not been dismissed and are
2 represented by counsel desire to file the Second Amended Complaint;

3 WHEREAS, defendant Grubb & Ellis Realty Income Trust, Liquidating Trust has not
4 appeared, is not represented by counsel and claims to have dissolved and to no longer exist, and
5 defendant Northrop Grumman Systems Corporation has settled this matter and been dismissed with
6 prejudice;

7 WHEREAS, the Second Amended Complaint clarifies plaintiff's intent to include in the
8 original complaint and/or adds as defendants John McCorduck, Kathleen McCorduck, Pamela
9 McCorduck, Sandra McCorduck Marona, (collectively the "McCorduck Defendants") and IMA
10 Financial Corporation, a California corporation ("IMA");

11 WHEREAS, the McCorduck Defendants and IMA are prior owners of the Miller's Outpost
12 Shopping Center, which is one of the two shopping centers at issues in this litigation;

13 WHEREAS, as prior owners of the Miller's Outpost Shopping Center, the McCorduck
14 Defendants and IMA face potential liability for the claims in plaintiff's complaint; and

15 WHEREAS, plaintiff and the defendants believe that clarifying and/or adding the McCorduck
16 Defendants and IMA will facilitate settlement of this matter.

17 THEREFORE, IT IS HEREBY STIPULATED by and between attorneys for plaintiff and the
18 defendants (except for Grubb & Ellis Realty Income Trust, Liquidating Trust and Northrop Grumman
19 System Corporation) that plaintiff be granted leave to file the Second Amended Complaint, a copy of
20 which is attached as Exhibit A, on or before July 16, 2011.

21
22 APPROVED AS TO FORM AND CONTENT.

1 DATED: June 23, 2011

COX, CASTLE & NICHOLSON LLP

3 By: _____/s/

4 Peter M. Morrisette
5 Attorneys for Plaintiff
6 PALMTREE ACQUISITION CORPORATION, a
7 Delaware corporation f/k/a Catellus Development
8 Corporation

9 DATED: June 23, 2011

10 BASSI MARTINI EDLIN & BLUM, LLP

11 By: _____/s/

12 Noel Edin
13 Attorneys for Defendants
14 MICHAEL R. NEELY, an individual; PERRY J.
15 NEELY, an individual; GARY NEELY, an
16 individual; MICHAEL R. NEELY, PERRY J.
17 NEELY and GARY NEELY dba MIKE'S ONE
18 HOUR CLEANERS

19 DATED: June 23, 2011

20 GONSALVES & KOZACHENKO

21 By: _____/s/

22 Selena P. Ontiveros
23 Attorneys for Defendant
24 STARK INVESTMENT COMPANY, a California
25 general partnership

26 DATED: June 23, 2011

27 DONGELL LAWRENCE FINNEY LLP

28 By: _____/s/

Thomas F. Vandenburg
Attorneys for Defendant
MULTIMATIC CORPORATION, a New Jersey
corporation

DATED: June 23, 2011

ROGERS JOSEPH O'DONNELL

By: _____ /s/

Robert C. Goodman
Attorneys for Defendant
CHARLES FREDERICK HARTZ dba PAUL'S
SPARKLE CLEANERS; CHARLES F. HARTZ,
an individual

DATED: June 23, 2011

**GORDON WATROUS RYAN LANGLEY BRUNO
& PALTENGHI INC.**

By: /s/

Bruce Clinton Paltenghi
Attorneys for Defendant
MCCORDUCK PROPERTIES LIVERMORE,
LLC, a Delaware limited liability company
individually and as the successor to JOHN
MCCORDUCK, KATHLEEN MCCORDUCK,
PAMELA MCCORDUCK, SANDRA
MCCORDUCK MARONA, and IMA
FINANCIAL CORPORATION, a California
corporation

DATED: June 23, 2011

FOLEY MCINTOSH FREY & CLAYTOR

By: /s/

Jim Claytor
Attorneys for Defendant
WESTERN STATES DESIGN, a California
corporation

IT IS SO ORDERED

6/27/11

8/27/11

